

[First Reprint]

ASSEMBLY, No. 276

STATE OF NEW JERSEY

210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

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District 15 (Mercer)

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Senators Vitale, Bennett, Turner, Gill and Sarlo**

SYNOPSIS

Prohibits firearm possession by persons convicted of domestic violence crime or domestic violence disorderly persons offense, convicted of stalking, or subject to domestic violence restraining order.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on December 11, 2003, with amendments.

(Sponsorship Updated As Of: 1/9/2004)

1 AN ACT concerning firearms and amending ¹[sections 5 and 13 of]¹
 2 P.L.1991, c.261, N.J.S.2C:39-7 and N.J.S.2C:58-3 ¹and
 3 supplementing Title 2C of the New Jersey Statutes¹.
 4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:
 7

8 1. Section 5 of P.L.1991, c.261 (C.2C:25-21) is amended to read
 9 as follows:

10 5. a. When a person claims to be a victim of domestic violence,
 11 and where a law enforcement officer responding to the incident finds
 12 probable cause to believe that domestic violence has occurred, the law
 13 enforcement officer shall arrest the person who is alleged to be the
 14 person who subjected the victim to domestic violence and shall sign a
 15 criminal complaint if:

16 (1) The victim exhibits signs of injury caused by an act of domestic
 17 violence;

18 (2) A warrant is in effect;

19 (3) There is probable cause to believe that the person has violated
 20 N.J.S.2C:29-9, and there is probable cause to believe that the person
 21 has been served with the order alleged to have been violated. If the
 22 victim does not have a copy of a purported order, the officer may
 23 verify the existence of an order with the appropriate law enforcement
 24 agency; or

25 (4) There is probable cause to believe that a weapon as defined in
 26 N.J.S.2C:39-1 has been involved in the commission of an act of
 27 domestic violence.

28 b. A law enforcement officer may arrest a person; or may sign a
 29 criminal complaint against that person, or may do both, where there is
 30 probable cause to believe that an act of domestic violence has been
 31 committed, but where none of the conditions in subsection a. of this
 32 section applies.

33 c. (1) As used in this section, the word "exhibits" is to be liberally
 34 construed to mean any indication that a victim has suffered bodily
 35 injury, which shall include physical pain or any impairment of physical
 36 condition. Where the victim exhibits no visible sign of injury, but states
 37 that an injury has occurred, the officer should consider other relevant
 38 factors in determining whether there is probable cause to make an
 39 arrest.

40 (2) In determining which party in a domestic violence incident is
 41 the victim where both parties exhibit signs of injury, the officer should

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted December 11, 2003.

1 consider the comparative extent of the injuries, the history of domestic
2 violence between the parties, if any, and any other relevant factors.

3 (3) No victim shall be denied relief or arrested or charged under
4 this act with an offense because the victim used reasonable force in self
5 defense against domestic violence by an attacker.

6 d. (1) In addition to a law enforcement officer's authority to seize
7 any weapon that is contraband, evidence or an instrumentality of
8 crime, a law enforcement officer who has probable cause to believe
9 that an act of domestic violence has been committed ~~[may]~~shall:

10 (a) question persons present to determine whether there are
11 weapons on the premises; and

12 (b) upon observing or learning that a weapon is present on the
13 premises, seize any weapon that the officer reasonably believes would
14 expose the victim to a risk of serious bodily injury. ¹If a law
15 enforcement officer seizes any firearm pursuant to this paragraph, the
16 officer shall also seize any firearm purchaser identification card or
17 permit to purchase a handgun issued to the person accused of the act
18 of domestic violence.¹

19 (2) A law enforcement officer shall deliver all weapons ¹, firearms
20 purchaser identification cards and permits to purchase a handgun¹
21 seized pursuant to this section to the county prosecutor and shall
22 append an inventory of all seized ¹~~[weapons]~~ items¹ to the domestic
23 violence report.

24 (3) Weapons seized in accordance with the ~~[above]~~ "Prevention
25 of Domestic Violence Act of 1991", P.L.1991,c.261(C.2C:25-17 et
26 seq.) shall be returned to the owner except upon order of the Superior
27 Court. The prosecutor who has possession of the seized weapons
28 may, upon notice to the owner, petition a judge of the Family Part of
29 the Superior Court, Chancery Division, within 45 days of seizure, to
30 obtain title to the seized weapons, or to revoke any and all permits,
31 licenses and other authorizations for the use, possession, or ownership
32 of such weapons pursuant to the law governing such use, possession,
33 or ownership, or may object to the return of the weapons on such
34 grounds as are provided for the initial rejection or later revocation of
35 the authorizations, or on the grounds that the owner is unfit or that the
36 owner poses a threat to the public in general or a person or persons in
37 particular.

38 A hearing shall be held and a record made thereof within ~~[15]~~ 45
39 days of the notice provided above. No formal pleading and no filing
40 fee shall be required as a preliminary to such hearing. The hearing
41 shall be summary in nature. Appeals from the results of the hearing
42 shall be to the Superior Court, Appellate Division, in accordance with
43 the law.

44 If the prosecutor does not institute an action within 45 days of
45 seizure, the seized weapons shall be returned to the owner.

46 After the hearing the court shall order the return of the firearms,

1 weapons and any authorization papers relating to the seized weapons
2 to the owner if the court determines the owner is not subject to any of
3 the disabilities set forth in N.J.S.2C:58-3c. and finds that the complaint
4 has been dismissed at the request of the complainant and the
5 prosecutor determines that there is insufficient probable cause to
6 indict; or if the defendant is found not guilty of the charges; or if the
7 court determines that the domestic violence situation no longer exists.

8 Nothing in this act shall impair the right of the State to retain
9 evidence pending a criminal prosecution. Nor shall any provision of
10 this act be construed to limit the authority of the State or a law
11 enforcement officer to seize, retain or forfeit property pursuant to
12 chapter 64 of Title 2C of the New Jersey Statutes.

13 If, after the hearing, the court determines that the weapons are not
14 to be returned to the owner, the court may:

15 (a) With respect to weapons other than firearms, order the
16 prosecutor to dispose of the weapons if the owner does not arrange
17 for the transfer or sale of the weapons to an appropriate person within
18 60 days; or

19 (b) Order the revocation of the owner's firearms purchaser
20 identification card or any permit, license or authorization, in which
21 case the court shall order the owner to surrender any firearm seized
22 and all other firearms possessed to the prosecutor and shall order the
23 prosecutor to dispose of the firearms if the owner does not arrange for
24 the sale of the firearms to a registered dealer of the firearms within 60
25 days; or

26 (c) Order such other relief as it may deem appropriate. When the
27 court orders the weapons forfeited to the State or the prosecutor is
28 required to dispose of the weapons, the prosecutor shall dispose of the
29 property as provided in N.J.S.2C:64-6.

30 (4) A civil suit may be brought to enjoin a wrongful failure to
31 return a seized firearm where the prosecutor refuses to return the
32 weapon after receiving a written request to do so and notice of the
33 owner's intent to bring a civil action pursuant to this section. Failure
34 of the prosecutor to comply with the provisions of this act shall entitle
35 the prevailing party in the civil suit to reasonable costs, including
36 attorney's fees, provided that the court finds that the prosecutor failed
37 to act in good faith in retaining the seized weapon.

38 (5) [No law enforcement officer or agency shall be held liable in
39 any civil action brought by any person for failing to learn of, locate or
40 seize a weapon pursuant to this act, or for returning a seized weapon
41 to its owner.] ¹No law enforcement officer or agency shall be held
42 liable in any civil action brought by any person for failing to learn of,
43 locate or seize a weapon pursuant to this act, or for returning a seized
44 weapon to its owner.¹

45 ¹[(6) If a weapon is found on the premises, the law enforcement
46 officers shall demand and confiscate any firearms purchaser

1 identification card or permit to purchase a handgun issued pursuant to
2 N.J.S.2C:58-3 from the accused perpetrator of the domestic violence
3 incident. The law enforcement officer shall deliver the confiscated
4 card or permit to the county prosecutor's officer.】¹

5 (cf: P.L.1991,c.261,s.5)

6
7 2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read
8 as follows:

9 13. a. A hearing shall be held in the Family Part of the Chancery
10 Division of the Superior Court within 10 days of the filing of a
11 complaint pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in
12 the county where the ex parte restraints were ordered, unless good
13 cause is shown for the hearing to be held elsewhere. A copy of the
14 complaint shall be served on the defendant in conformity with the
15 Rules of Court. If a criminal complaint arising out of the same incident
16 which is the subject matter of a complaint brought under P.L.1981,
17 c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has
18 been filed, testimony given by the plaintiff or defendant in the domestic
19 violence matter shall not be used in the simultaneous or subsequent
20 criminal proceeding against the defendant, other than domestic
21 violence contempt matters and where it would otherwise be admissible
22 hearsay under the rules of evidence that govern where a party is
23 unavailable. At the hearing the standard for proving the allegations in
24 the complaint shall be by a preponderance of the evidence. The court
25 shall consider but not be limited to the following factors:

26 (1) The previous history of domestic violence between the plaintiff
27 and defendant, including threats, harassment and physical abuse;

28 (2) The existence of immediate danger to person or property;

29 (3) The financial circumstances of the plaintiff and defendant;

30 (4) The best interests of the victim and any child;

31 (5) In determining custody and parenting time the protection of the
32 victim's safety; and

33 (6) The existence of a verifiable order of protection from another
34 jurisdiction.

35 An order issued under this act shall only restrain or provide
36 damages payable from a person against whom a complaint has been
37 filed under this act and only after a finding or an admission is made
38 that an act of domestic violence was committed by that person. The
39 issue of whether or not a violation of this act occurred, including an
40 act of contempt under this act, shall not be subject to mediation or
41 negotiation in any form. In addition, where a temporary or final order
42 has been issued pursuant to this act, no party shall be ordered to
43 participate in mediation on the issue of custody or parenting time.

44 b. In proceedings in which complaints for restraining orders have
45 been filed, the court shall grant any relief necessary to prevent further
46 abuse. In addition to any other provisions, any restraining order¹ [or

1 order prohibiting the defendant from possessing any firearm]¹ issued
2 by the court shall bar the defendant from ¹purchasing, owning,
3 possessing or controlling a firearm and from¹ receiving ¹or retaining¹
4 a firearms purchaser identification card or permit to purchase a
5 handgun pursuant to N.J.S.2C:58-3 ¹[for a period of at least two
6 years or] ¹ during the period in which the restraining order is in effect
7 ¹[.]or two years¹ whichever is ¹[longer] greater[.]except that this
8 provision shall not apply to any law enforcement officer while actually
9 on duty, or to any member of the Armed Forces of the United States
10 or member of the National Guard while actually on duty or traveling
11 to or from an authorized place of duty.¹ At the hearing the judge of
12 the Family Part of the Chancery Division of the Superior Court may
13 issue an order granting any or all of the following relief:

14 (1) An order restraining the defendant from subjecting the victim
15 to domestic violence, as defined in this act.

16 (2) An order granting exclusive possession to the plaintiff of the
17 residence or household regardless of whether the residence or
18 household is jointly or solely owned by the parties or jointly or solely
19 leased by the parties. This order shall not in any manner affect title or
20 interest to any real property held by either party or both jointly. If it
21 is not possible for the victim to remain in the residence, the court may
22 order the defendant to pay the victim's rent at a residence other than
23 the one previously shared by the parties if the defendant is found to
24 have a duty to support the victim and the victim requires alternative
25 housing.

26 (3) An order providing for parenting time. The order shall protect
27 the safety and well-being of the plaintiff and minor children and shall
28 specify the place and frequency of parenting time. Parenting time
29 arrangements shall not compromise any other remedy provided by the
30 court by requiring or encouraging contact between the plaintiff and
31 defendant. Orders for parenting time may include a designation of a
32 place of parenting time away from the plaintiff, the participation of a
33 third party, or supervised parenting time.

34 (a) The court shall consider a request by a custodial parent who
35 has been subjected to domestic violence by a person with parenting
36 time rights to a child in the parent's custody for an investigation or
37 evaluation by the appropriate agency to assess the risk of harm to the
38 child prior to the entry of a parenting time order. Any denial of such
39 a request must be on the record and shall only be made if the judge
40 finds the request to be arbitrary or capricious.

41 (b) The court shall consider suspension of the parenting time order
42 and hold an emergency hearing upon an application made by the
43 plaintiff certifying under oath that the defendant's access to the child
44 pursuant to the parenting time order has threatened the safety and
45 well-being of the child.

46 (4) An order requiring the defendant to pay to the victim monetary

1 compensation for losses suffered as a direct result of the act of
2 domestic violence. The order may require the defendant to pay the
3 victim directly, to reimburse the Victims of Crime Compensation
4 Board for any and all compensation paid by the Victims of Crime
5 Compensation Board directly to or on behalf of the victim, and may
6 require that the defendant reimburse any parties that may have
7 compensated the victim, as the court may determine. Compensatory
8 losses shall include, but not be limited to, loss of earnings or other
9 support, including child or spousal support, out-of-pocket losses for
10 injuries sustained, cost of repair or replacement of real or personal
11 property damaged or destroyed or taken by the defendant, cost of
12 counseling for the victim, moving or other travel expenses, reasonable
13 attorney's fees, court costs, and compensation for pain and suffering.
14 Where appropriate, punitive damages may be awarded in addition to
15 compensatory damages.

16 (5) An order requiring the defendant to receive professional
17 domestic violence counseling from either a private source or a source
18 appointed by the court and, in that event, requiring the defendant to
19 provide the court at specified intervals with documentation of
20 attendance at the professional counseling. The court may order the
21 defendant to pay for the professional counseling. No application by
22 the defendant to dissolve a final order which contains a requirement
23 for attendance at professional counseling pursuant to this paragraph
24 shall be granted by the court unless, in addition to any other provisions
25 required by law or conditions ordered by the court, the defendant has
26 completed all required attendance at such counseling.

27 (6) An order restraining the defendant from entering the residence,
28 property, school, or place of employment of the victim or of other
29 family or household members of the victim and requiring the defendant
30 to stay away from any specified place that is named in the order and
31 is frequented regularly by the victim or other family or household
32 members.

33 (7) An order restraining the defendant from making contact with
34 the plaintiff or others, including an order forbidding the defendant
35 from personally or through an agent initiating any communication
36 likely to cause annoyance or alarm including, but not limited to,
37 personal, written, or telephone contact with the victim or other family
38 members, or their employers, employees, or fellow workers, or others
39 with whom communication would be likely to cause annoyance or
40 alarm to the victim.

41 (8) An order requiring that the defendant make or continue to
42 make rent or mortgage payments on the residence occupied by the
43 victim if the defendant is found to have a duty to support the victim or
44 other dependent household members; provided that this issue has not
45 been resolved or is not being litigated between the parties in another
46 action.

1 (9) An order granting either party temporary possession of
2 specified personal property, such as an automobile, checkbook,
3 documentation of health insurance, an identification document, a key,
4 and other personal effects.

5 (10) An order awarding emergency monetary relief, including
6 emergency support for minor children, to the victim and other
7 dependents, if any. An ongoing obligation of support shall be
8 determined at a later date pursuant to applicable law.

9 (11) An order awarding temporary custody of a minor child. The
10 court shall presume that the best interests of the child are served by an
11 award of custody to the non-abusive parent.

12 (12) An order requiring that a law enforcement officer accompany
13 either party to the residence or any shared business premises to
14 supervise the removal of personal belongings in order to ensure the
15 personal safety of the plaintiff when a restraining order has been
16 issued. This order shall be restricted in duration.

17 (13) (Deleted by amendment, P.L.1995, c.242).

18 (14) An order granting any other appropriate relief for the plaintiff
19 and dependent children, provided that the plaintiff consents to such
20 relief, including relief requested by the plaintiff at the final hearing,
21 whether or not the plaintiff requested such relief at the time of the
22 granting of the initial emergency order.

23 (15) An order that requires that the defendant report to the intake
24 unit of the Family Part of the Chancery Division of the Superior Court
25 for monitoring of any other provision of the order.

26 (16) ¹[An order] In addition to the order required by this
27 subsection¹ prohibiting the defendant from possessing any firearm
28 ¹[or] ,the court may also issue an order prohibiting the defendant
29 from possessing any¹ other weapon enumerated in subsection r. of
30 N.J.S.2C:39-1 and ordering the search for and seizure of any
31 ¹[such]firearm or other¹ weapon at any location where the judge has
32 reasonable cause to believe the weapon is located. The judge shall
33 state with specificity the reasons for and scope of the search and
34 seizure authorized by the order.

35 (17) An order prohibiting the defendant from stalking or following,
36 or threatening to harm, to stalk or to follow, the complainant or any
37 other person named in the order in a manner that, taken in the context
38 of past actions of the defendant, would put the complainant in
39 reasonable fear that the defendant would cause the death or injury of
40 the complainant or any other person. Behavior prohibited under this
41 act includes, but is not limited to, behavior prohibited under the
42 provisions of P.L.1992, c.209 (C.2C:12-10).

43 (18) An order requiring the defendant to undergo a psychiatric
44 evaluation.

45 c. Notice of orders issued pursuant to this section shall be sent by
46 the clerk of the Family Part of the Chancery Division of the Superior

1 Court or other person designated by the court to the appropriate chiefs
2 of police, members of the State Police and any other appropriate law
3 enforcement agency.

4 d. Upon good cause shown, any final order may be dissolved or
5 modified upon application to the Family Part of the Chancery Division
6 of the Superior Court, but only if the judge who dissolves or modifies
7 the order is the same judge who entered the order, or has available a
8 complete record of the hearing or hearings on which the order was
9 based.

10 e. Prior to the issuance of any order pursuant to this section, the
11 court shall order that a search be made of the domestic violence
12 central registry.

13 (cf: P.L.1999, c.421, s.4)

14
15 3. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read as
16 follows:

17 6. Certain Persons Not to Have Weapons.

18 a. Except as provided in subsection b. of this section, any person,
19 having been convicted in this State or elsewhere of the crime of
20 aggravated assault, arson, burglary, escape, extortion, homicide,
21 kidnapping, robbery, aggravated sexual assault, sexual assault, bias
22 intimidation in violation of N.J.S.2C:16-1 or endangering the welfare
23 of a child pursuant to N.J.S.2C:24-4, whether or not armed with or
24 having in his possession any weapon enumerated in subsection r. of
25 N.J.S.2C:39-1, or any person convicted of a crime pursuant to the
26 provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or N.J.S.2C:39-9, or any
27 person who has ever been committed for a mental disorder to any
28 hospital, mental institution or sanitarium unless he possesses a
29 certificate of a medical doctor or psychiatrist licensed to practice in
30 New Jersey or other satisfactory proof that he is no longer suffering
31 from a mental disorder which interferes with or handicaps him in the
32 handling of a firearm, or any person who has been convicted of other
33 than a disorderly persons or petty disorderly persons offense for the
34 unlawful use, possession or sale of a controlled dangerous substance
35 as defined in N.J.S.2C:35-2 who purchases, owns, possesses or
36 controls any of the said weapons is guilty of a crime of the fourth
37 degree.

38 b. (1) A person having been convicted in this State or elsewhere
39 of the crime of aggravated assault, arson, burglary, escape, extortion,
40 homicide, kidnapping, robbery, aggravated sexual assault, sexual
41 assault, bias intimidation in violation of N.J.S.2C:16-1 ¹[or]¹
42 endangering the welfare of a child pursuant to N.J.S.2C:24-4, stalking
43 pursuant to P.L.1992, c.209 (C.2C:12-10) or ¹[for] a crime
44 involving¹ domestic violence as defined in section 3 of P.L., c.261
45 (C.2C:25-19), whether or not armed with or having in his possession
46 a weapon enumerated in subsection r. of N.J.S.2C:39-1, or a person

1 having been convicted of a crime pursuant to the provisions of
2 N.J.S.2C:35-3 through N.J.S.2C:35-6, inclusive; section 1 of
3 P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-11; N.J.S.2C:39-3;
4 N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases, owns, possesses or
5 controls a firearm is guilty of a crime of the second degree and upon
6 conviction thereof, the person shall be sentenced to a term of
7 imprisonment by the court. The term of imprisonment shall include the
8 imposition of a minimum term, which shall be fixed at five years,
9 during which the defendant shall be ineligible for parole. If the
10 defendant is sentenced to an extended term of imprisonment pursuant
11 to N.J.S.2C:43-7, the extended term of imprisonment shall include the
12 imposition of a minimum term, which shall be fixed at, or between,
13 one-third and one-half of the sentence imposed by the court or five
14 years, whichever is greater, during which the defendant shall be
15 ineligible for parole.

16 (2) A person having been convicted in this State or elsewhere of a
17 disorderly persons offense¹ involving domestic violence¹, whether or
18 not armed with or having in his possession a weapon enumerated in
19 subsection r. of N.J.S.2C:39-1,¹ [for stalking pursuant to P.L. 1992,
20 c.209 (C.2C:12-10), endangering the welfare of a child pursuant to
21 N.J.S.2C:24-4 or for domestic violence as defined in section 3 of
22 P.L.1991, c.261 (C.2C:25-19),]¹ who purchases, owns, possesses or
23 controls a firearm is guilty of a crime of the¹ [fourth] third¹ degree.

24 (3) A person whose¹ [weapons have been] firearm is¹ seized
25 pursuant to¹ [subsection d. of section 5 of P.L. 1991, c.261 (C.2C:25-
26 21) or who is subject to the prohibitions on the purchase of firearms
27 provided in subsection b. of section 13 of P.L.1991,c.261 (C.26:25-
28 29)] the "Prevention of Domestic Violence Act of 1991,"
29 P.L.1991,c.261 (C.2C:25-17 et seq.) and whose firearm has not been
30 returned, or who is subject to a court order prohibiting the possession
31 of firearms issued pursuant to the "Prevention of Domestic Violence
32 Act of 1991," P.L.1991,c.261 (C.2C:25-17 et seq.)¹ who purchases,
33 owns, possesses or controls a firearm is guilty of a crime of the
34 ¹ [fourth] third degree, except that the provisions of this paragraph
35 shall not apply to any law enforcement officer while actually on duty,
36 or to any member of the Armed Forces of the United States or member
37 of the National Guard while actually on duty or traveling to or from
38 an authorized place of duty.¹

39 ¹ [(4) The provisions of paragraph (2) of this subsection shall not
40 apply to a person convicted for endangering the welfare of a child
41 pursuant to N.J.S2C:24-4 or for domestic violence as defined in
42 section 3 of P.L. 1991, c.261 (C.2C:25-19) two years after that
43 person's conviction or completion of a term of imprisonment,
44 whichever is later, provided that person subsequently has not been
45 convicted of any crime or disorderly persons offense.]¹

1 c. Whenever any person shall have been convicted in another state,
2 territory, commonwealth or other jurisdiction of the United States, or
3 any country in the world, in a court of competent jurisdiction, of a
4 crime which in said other jurisdiction or country is comparable to one
5 of the crimes enumerated in subsection a. or b. of this section, then
6 that person shall be subject to the provisions of this section.
7 (cf: P.L.2001, c.443, s.5)

8
9 4. N.J.S.2C:58-3 is amended to read as follows:

10 2C:58-3. Purchase of Firearms.

11 a. Permit to purchase a handgun. No person shall sell, give,
12 transfer, assign or otherwise dispose of, nor receive, purchase, or
13 otherwise acquire a handgun unless the purchaser, assignee, donee,
14 receiver or holder is licensed as a dealer under this chapter or has first
15 secured a permit to purchase a handgun as provided by this section.

16 b. Firearms purchaser identification card. No person shall sell,
17 give, transfer, assign or otherwise dispose of nor receive, purchase or
18 otherwise acquire an antique cannon or a rifle or shotgun, other than
19 an antique rifle or shotgun, unless the purchaser, assignee, donee,
20 receiver or holder is licensed as a dealer under this chapter or
21 possesses a valid firearms purchaser identification card, and first
22 exhibits said card to the seller, donor, transferor or assignor, and
23 unless the purchaser, assignee, donee, receiver or holder signs a
24 written certification, on a form prescribed by the superintendent,
25 which shall indicate that he presently complies with the requirements
26 of subsection c. of this section and shall contain his name, address and
27 firearms purchaser identification card number or dealer's registration
28 number. The said certification shall be retained by the seller, as
29 provided in section 2C:58-2a., or, in the case of a person who is not
30 a dealer, it may be filed with the chief of police of the municipality in
31 which he resides or with the superintendent.

32 c. Who may obtain. No person of good character and good repute
33 in the community in which he lives, and who is not subject to any of
34 the disabilities set forth in this section or other sections of this chapter,
35 shall be denied a permit to purchase a handgun or a firearms purchaser
36 identification card, except as hereinafter set forth. No handgun
37 purchase permit or firearms purchaser identification card shall be
38 issued:

39 (1) To any person who has been convicted of ¹[a] any ¹crime, ¹or
40 a disorderly persons offense involving an act of domestic violence as
41 defined in section 3 of P.L.1991,c.261(C.2C:25-19).¹ whether or not
42 armed with or possessing a weapon at the time of such offense;

43 (2) To any drug dependent person as defined in section 2 of
44 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
45 mental disorder to a hospital, mental institution or sanitarium, or to
46 any person who is presently an habitual drunkard;

1 (3) To any person who suffers from a physical defect or disease
2 which would make it unsafe for him to handle firearms, to any person
3 who has ever been confined for a mental disorder, or to any alcoholic
4 unless any of the foregoing persons produces a certificate of a medical
5 doctor or psychiatrist licensed in New Jersey, or other satisfactory
6 proof, that he is no longer suffering from that particular disability in
7 such a manner that would interfere with or handicap him in the
8 handling of firearms; to any person who knowingly falsifies any
9 information on the application form for a handgun purchase permit or
10 firearms purchaser identification card;

11 (4) To any person under the age of 18 years for a firearms
12 purchaser identification card and to any person under the age of 21
13 years for a permit to purchase a handgun;

14 (5) To any person where the issuance would not be in the interest
15 of the public health, safety or welfare;

16 (6) To any person who is subject to a restraining order¹ [or court
17 order]¹ issued pursuant to ¹ [section 13 of P.L.1991, c.261
18 (C.2C:25-29)] the "Prevention of Domestic Violence Act of 1991,"
19 P.L.1991, c.261 (C.2C:25-17 et seq.)¹ prohibiting the person from
20 possessing any firearm¹ [A person who is subject to a restraining
21 order or court order issued pursuant to section 13 of P.L.1991, c.261
22 (C.2C:25-29) prohibiting the person from possessing any firearm shall
23 be barred from receiving a handgun purchase permit or firearms
24 purchaser identification card for a period of at least two years or as
25 ordered by the court that issued the order. At the conclusion of that
26 period, the defendant may apply for a permit or identification card;
27 or].¹

28 (7) To any person who as a juvenile was adjudicated delinquent for
29 an offense which, if committed by an adult, would constitute a crime
30 and the offense involved the unlawful use or possession of a weapon,
31 explosive or destructive device or is enumerated in subsection d. of
32 section 2 of P.L.1997, c.117 (C.2C:43-7.2) ¹ [.

33 (7) To any person who is subject to the restrictions imposed by
34 paragraphs (2) or (3) of subsection b. of section 6 of
35 P.L.1979,c.179(C.2C:39-7).]¹ ; or

36 ¹ (8) To any person whose firearm is seized pursuant to the
37 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
38 (C.2C:25-17 et seq.) and whose firearm has not been returned.¹

39 d. Issuance. The chief of police of an organized full-time police
40 department of the municipality where the applicant resides or the
41 superintendent, in all other cases, shall upon application, issue to any
42 person qualified under the provisions of subsection c. of this section
43 a permit to purchase a handgun or a firearms purchaser identification
44 card.

45 Any person aggrieved by the denial of a permit or identification
46 card may request a hearing in the Superior Court of the county in

1 which he resides if he is a resident of New Jersey or in the Superior
2 Court of the county in which his application was filed if he is a
3 nonresident. The request for a hearing shall be made in writing within
4 30 days of the denial of the application for a permit or identification
5 card. The applicant shall serve a copy of his request for a hearing
6 upon the chief of police of the municipality in which he resides, if he
7 is a resident of New Jersey, and upon the superintendent in all cases.
8 The hearing shall be held and a record made thereof within 30 days of
9 the receipt of the application for such hearing by the judge of the
10 Superior Court. No formal pleading and no filing fee shall be required
11 as a preliminary to such hearing. Appeals from the results of such
12 hearing shall be in accordance with law.

13 e. Applications. Applications for permits to purchase a handgun
14 and for firearms purchaser identification cards shall be in the form
15 prescribed by the superintendent and shall set forth the name,
16 residence, place of business, age, date of birth, occupation, sex and
17 physical description, including distinguishing physical characteristics,
18 if any, of the applicant, and shall state whether the applicant is a
19 citizen, whether he is an alcoholic, habitual drunkard, drug dependent
20 person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether
21 he has ever been confined or committed to a mental institution or
22 hospital for treatment or observation of a mental or psychiatric
23 condition on a temporary, interim or permanent basis, giving the name
24 and location of the institution or hospital and the dates of such
25 confinement or commitment, whether he has been attended, treated or
26 observed by any doctor or psychiatrist or at any hospital or mental
27 institution on an inpatient or outpatient basis for any mental or
28 psychiatric condition, giving the name and location of the doctor,
29 psychiatrist, hospital or institution and the dates of such occurrence,
30 whether he presently or ever has been a member of any organization
31 which advocates or approves the commission of acts of force and
32 violence to overthrow the Government of the United States or of this
33 State, or which seeks to deny others their rights under the Constitution
34 of either the United States or the State of New Jersey, whether he has
35 ever been convicted of a crime or disorderly persons offense, whether
36 the person ¹~~[[is]has been]~~ is¹ subject to a restraining order¹ [or court
37 order]¹ issued pursuant to ¹[section 13 of P.L.1991, c.261
38 (C.2C:25-29)] the "Prevention of Domestic Violence Act of 1991,"
39 P.L.1991, c.261 (C.2C:25-17 et. seq.)¹ prohibiting the person from
40 possessing any firearm, and such other information as the
41 superintendent shall deem necessary for the proper enforcement of this
42 chapter. For the purpose of complying with this subsection, the
43 applicant shall waive any statutory or other right of confidentiality
44 relating to institutional confinement. The application shall be signed
45 by the applicant and shall contain as references the names and
46 addresses of two reputable citizens personally acquainted with him.

1 Application blanks shall be obtainable from the superintendent,
2 from any other officer authorized to grant such permit or identification
3 card, and from licensed retail dealers.

4 The chief police officer or the superintendent shall obtain the
5 fingerprints of the applicant and shall have them compared with any
6 and all records of fingerprints in the municipality and county in which
7 the applicant resides and also the records of the State Bureau of
8 Identification and the Federal Bureau of Investigation, provided that
9 an applicant for a handgun purchase permit who possesses a valid
10 firearms purchaser identification card, or who has previously obtained
11 a handgun purchase permit from the same licensing authority for which
12 he was previously fingerprinted, and who provides other reasonably
13 satisfactory proof of his identity, need not be fingerprinted again;
14 however, the chief police officer or the superintendent shall proceed
15 to investigate the application to determine whether or not the applicant
16 has become subject to any of the disabilities set forth in this chapter.

17 f. Granting of permit or identification card; fee; term; renewal;
18 revocation. The application for the permit to purchase a handgun
19 together with a fee of \$2.00, or the application for the firearms
20 purchaser identification card together with a fee of \$5.00, shall be
21 delivered or forwarded to the licensing authority who shall investigate
22 the same and, unless good cause for the denial thereof appears, shall
23 grant the permit or the identification card, or both, if application has
24 been made therefor, within 30 days from the date of receipt of the
25 application for residents of this State and within 45 days for
26 nonresident applicants. A permit to purchase a handgun shall be valid
27 for a period of 90 days from the date of issuance and may be renewed
28 by the issuing authority for good cause for an additional 90 days. A
29 firearms purchaser identification card shall be valid until such time as
30 the holder becomes subject to any of the disabilities set forth in
31 subsection c. of this section, whereupon the card shall be void and
32 shall be returned within five days by the holder to the superintendent,
33 who shall then advise the licensing authority. Failure of the holder to
34 return the firearms purchaser identification card to the superintendent
35 within the said five days shall be an offense under section 2C:39-10a.
36 Any firearms purchaser identification card may be revoked by the
37 Superior Court of the county wherein the card was issued, after
38 hearing upon notice, upon a finding that the holder thereof no longer
39 qualifies for the issuance of such permit. The county prosecutor of
40 any county, the chief police officer of any municipality or any citizen
41 may apply to such court at any time for the revocation of such card.

42 There shall be no conditions or requirements added to the form or
43 content of the application, or required by the licensing authority for
44 the issuance of a permit or identification card, other than those that are
45 specifically set forth in this chapter.

46 g. Disposition of fees. All fees for permits shall be paid to the

1 State Treasury if the permit is issued by the superintendent, to the
2 municipality if issued by the chief of police, and to the county treasurer
3 if issued by the judge of the Superior Court.

4 h. Form of permit; quadruplicate; disposition of copies. The permit
5 shall be in the form prescribed by the superintendent and shall be
6 issued to the applicant in quadruplicate. Prior to the time he receives
7 the handgun from the seller, the applicant shall deliver to the seller the
8 permit in quadruplicate and the seller shall complete all of the
9 information required on the form. Within five days of the date of the
10 sale, the seller shall forward the original copy to the superintendent
11 and the second copy to the chief of police of the municipality in which
12 the purchaser resides, except that in a municipality having no chief of
13 police, such copy shall be forwarded to the superintendent. The third
14 copy shall then be returned to the purchaser with the pistol or revolver
15 and the fourth copy shall be kept by the seller as a permanent record.

16 i. Restriction on number of firearms person may purchase. Only
17 one handgun shall be purchased or delivered on each permit, but a
18 person shall not be restricted as to the number of rifles or shotguns he
19 may purchase, provided he possesses a valid firearms purchaser
20 identification card and provided further that he signs the certification
21 required in subsection b. of this section for each transaction.

22 j. Firearms passing to heirs or legatees. Notwithstanding any other
23 provision of this section concerning the transfer, receipt or acquisition
24 of a firearm, a permit to purchase or a firearms purchaser identification
25 card shall not be required for the passing of a firearm upon the death
26 of an owner thereof to his heir or legatee, whether the same be by
27 testamentary bequest or by the laws of intestacy. The person who
28 shall so receive, or acquire said firearm shall, however, be subject to
29 all other provisions of this chapter. If the heir or legatee of such
30 firearm does not qualify to possess or carry it, he may retain ownership
31 of the firearm for the purpose of sale for a period not exceeding 180
32 days, or for such further limited period as may be approved by the
33 chief law enforcement officer of the municipality in which the heir or
34 legatee resides or the superintendent, provided that such firearm is in
35 the custody of the chief law enforcement officer of the municipality or
36 the superintendent during such period.

37 k. Sawed-off shotguns. Nothing in this section shall be construed
38 to authorize the purchase or possession of any sawed-off shotgun.

39 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to the
40 sale or purchase of a visual distress signalling device approved by the
41 United States Coast Guard, solely for possession on a private or
42 commercial aircraft or any boat; provided, however, that no person
43 under the age of 18 years shall purchase nor shall any person sell to a
44 person under the age of 18 years such a visual distress signalling
45 device.

46 (cf: P.L.2003, c.73, s1)

1 15. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to read
2 as follows:

3 12. a. A victim may file a complaint alleging the commission of an
4 act of domestic violence with the Family Part of the Chancery Division
5 of the Superior Court in conformity with the [rules of court] Rules of
6 Court. The court shall not dismiss any complaint or delay disposition
7 of a case because the victim has left the residence to avoid further
8 incidents of domestic violence. Filing a complaint pursuant to this
9 section shall not prevent the filing of a criminal complaint for the same
10 act.

11 On weekends, holidays and other times when the court is closed, a
12 victim may file a complaint before a judge of the Family Part of the
13 Chancery Division of the Superior Court or a municipal court judge
14 who shall be assigned to accept complaints and issue emergency, ex
15 parte relief in the form of temporary restraining orders pursuant to this
16 act.

17 A plaintiff may apply for relief under this section in a court having
18 jurisdiction over the place where the alleged act of domestic violence
19 occurred, where the defendant resides, or where the plaintiff resides
20 or is sheltered, and the court shall follow the same procedures
21 applicable to other emergency applications. Criminal complaints filed
22 pursuant to this act shall be investigated and prosecuted in the
23 jurisdiction where the offense is alleged to have occurred. Contempt
24 complaints filed pursuant to N.J.S.2C:29-9 shall be prosecuted in the
25 county where the contempt is alleged to have been committed and a
26 copy of the contempt complaint shall be forwarded to the court that
27 issued the order alleged to have been violated.

28 b. The court shall waive any requirement that the petitioner's place
29 of residence appear on the complaint.

30 c. The clerk of the court, or other person designated by the court,
31 shall assist the parties in completing any forms necessary for the filing
32 of a summons, complaint, answer or other pleading.

33 d. Summons and complaint forms shall be readily available at the
34 clerk's office, at the municipal courts and at municipal and State police
35 stations.

36 e. As soon as the domestic violence complaint is filed, both the
37 victim and the abuser shall be advised of any programs or services
38 available for advice and counseling.

39 f. A plaintiff may seek emergency, ex parte relief in the nature of
40 a temporary restraining order. A municipal court judge or a judge of
41 the Family Part of the Chancery Division of the Superior Court may
42 enter an ex parte order when necessary to protect the life, health or
43 well-being of a victim on whose behalf the relief is sought.

44 g. If it appears that the plaintiff is in danger of domestic violence,
45 the judge shall, upon consideration of the plaintiff's domestic violence
46 complaint, order emergency ex parte relief, in the nature of a

1 temporary restraining order. A decision shall be made by the judge
2 regarding the emergency relief forthwith.

3 h. A judge may issue a temporary restraining order upon sworn
4 testimony or complaint of an applicant who is not physically present,
5 pursuant to court rules, or by a person who represents a person who
6 is physically or mentally incapable of filing personally. A temporary
7 restraining order may be issued if the judge is satisfied that exigent
8 circumstances exist sufficient to excuse the failure of the applicant to
9 appear personally and that sufficient grounds for granting the
10 application have been shown.

11 i. An order for emergency, ex parte relief shall be granted upon
12 good cause shown and shall remain in effect until a judge of the Family
13 Part issues a further order. Any temporary order hereunder is
14 immediately appealable for a plenary hearing de novo not on the
15 record before any judge of the Family Part of the county in which the
16 plaintiff resides or is sheltered if that judge issued the temporary order
17 or has access to the reasons for the issuance of the temporary order
18 and sets forth in the record the reasons for the modification or
19 dissolution. The denial of a temporary restraining order by a municipal
20 court judge and subsequent administrative dismissal of the complaint
21 shall not bar the victim from refileing a complaint in the Family Part
22 based on the same incident and receiving an emergency, ex parte
23 hearing de novo not on the record before a Family Part judge, and
24 every denial of relief by a municipal court judge shall so state.

25 j. Emergency relief may include forbidding the defendant from
26 returning to the scene of the domestic violence, forbidding the
27 defendant [to possess] from possessing any firearm or other weapon
28 enumerated in subsection r. of N.J.S.2C:39-1, ordering the search for
29 and seizure of any such weapon at any location where the judge has
30 reasonable cause to believe the weapon is located and the seizure of
31 any firearms purchaser identification card or permit to purchase a
32 handgun issued to the defendant and any other appropriate relief. The
33 judge shall state with specificity the reasons for and scope of the
34 search and seizure authorized by the order. The provisions of this
35 subsection prohibiting a defendant from possessing a firearm or other
36 weapon shall not apply to any law enforcement officer while actually
37 on duty, or to any member of the Armed Forces of the United States
38 or member of the National Guard while actually on duty or traveling
39 to or from an authorized place of duty.

40 k. The judge may permit the defendant to return to the scene of the
41 domestic violence to pick up personal belongings and effects but shall,
42 in the order granting relief, restrict the time and duration of such
43 permission and provide for police supervision of such visit.

44 l. An order granting emergency relief, together with the complaint
45 or complaints, shall immediately be forwarded to the appropriate law
46 enforcement agency for service on the defendant, and to the police of

1 the municipality in which the plaintiff resides or is sheltered, and shall
2 immediately be served upon the defendant by the police, except that
3 an order issued during regular court hours may be forwarded to the
4 sheriff for immediate service upon the defendant in accordance with
5 the Rules of Court. If personal service cannot be effected upon the
6 defendant, the court may order other appropriate substituted service.
7 At no time shall the plaintiff be asked or required to serve any order
8 on the defendant.

9 m. (Deleted by amendment, P.L.1994, c.94.)

10 n. Notice of temporary restraining orders issued pursuant to this
11 section shall be sent by the clerk of the court or other person
12 designated by the court to the appropriate chiefs of police, members
13 of the State Police and any other appropriate law enforcement agency
14 or court.

15 o. (Deleted by amendment, P.L.1994, c.94.)

16 p. Any temporary or permanent restraining order issued pursuant
17 to this act shall be in effect throughout the State, and shall be enforced
18 by all law enforcement officers.

19 q. Prior to the issuance of any temporary or permanent restraining
20 order issued pursuant to this section, the court shall order that a
21 search be made of the domestic violence central registry with regard
22 to the defendant's record.¹

23 (cf: P.L.1999, c.421, s.3)

24
25 ¹6. (New section) The Attorney General may adopt, pursuant to
26 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), rules and regulations necessary and appropriate to implement
28 this act.¹

29
30 ¹[5.] 7.¹ This act shall take effect immediately.